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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF WASHINGTON

10 UNITED STATES OF AMERICA, ) NO. 4:15-CR-6049-EFS-2  
11 )  
12 Plaintiff, ) DEFENDANT CARILLO CASILLAS'  
13 ) MOTION TO REOPEN DETENTION  
14 vs. )  
15 )  
16 JESE DAVID CARILLO CASILLAS )  
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MOTION

Comes now the defendant, Jese David Carillo Casillas, by and through counsel, Robin C. Emmans, and moves this court for an order reopening detention, due to the development of new information that the defense asserts affects the court's weighing of factors in the determination of whether adequate conditions of release may be crafted to ensure the defendant's return to court as well as the safety of the community. This motion is made pursuant to 18 USC 3142(f) and the memorandum set forth below.

MEMORANDUM

Mr. Carillo Casillas (2) appeared in custody for a detention hearing on August 19, 2016. A detention order followed that proceeding. ECF 29. This case charges crimes which render applicable the rebuttable presumption of 18 USC 3142 (e).

It has been over a year that this complex case has been pending. Mr. Carillo Casillas has been housed at the Benton County Jail during that time. Last week, an inmate walked up and hit him on either side of his face, as well as in the back of the head in an unprovoked attack. This broke his jaw. He did not receive adequate treatment through the Benton County Jail, but the Marshal's service was contacted, and they took him to a local hospital for an examination. That examination led to a surgery in which a plate and screws were surgically installed to stabilize his jaw. This leaves him with his jaw wired shut. After surgery, he was transported back to the jail. Counsel was able to visit him on Friday, November 17. He continues to lose weight, and is very uncomfortable as well as being afraid. It is difficult to speak with him because not only does it hurt for him to speak, he can't make himself understood very well with no jaw movement and his lips and mouth still tender from the procedure.

The reopening of detention is appropriate where "information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the

1 appearance of such person as required and the safety of any other person and the  
2 community.” 18 USC 3142 (f). The court also has the ability to order a temporary  
3 release of a defendant in circumstances under which “the judicial officer determines  
4 such release to be necessary for preparation of the person’s defense or for another  
5 compelling reason.  
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8 There are several changes in circumstances which merit the court’s reopening  
9 of detention and reconsideration of release for Mr. Carillo Casillas. The emergency  
10 which has arisen through this attack and his injury is of course the driving issue  
11 behind this motion. The court should also be aware that his wife and two children  
12 have moved out of the house in which they were living at the time of arrest. They are  
13 living nearer Kennewick, and now live with her parents, as well as two roommates.  
14 In its previous order, the court found that his residence was not an appropriate place  
15 to release the defendant to. That situation has changed. No one in the family’s  
16 current residence has firearms. No one there has criminal histories. These  
17 individuals all maintain solid employment, either through a contractor for  
18 LambWeston or as technicians at a local sleep center.  
19

20  
21 Under 18 USC 3142 (g)(1), should the court reopen detention as the defense  
22 here urges, there is a return to the 4 elements, including 1) the nature and  
23 circumstances of the offense charged, 2) the weight of the evidence, 3) the history  
24 and characteristics of the person, and 4) the nature and seriousness of any danger to  
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1 the community were Mr. Carillo Casillas released. Under 18 USC 3142 (e)(3), it  
 2 remains the defendant's burden to overcome the rebuttable presumption of detention.  
 3  
 4 The presumption shifts only the burden of production, not that of persuasion. United  
 5 States v. Clark, 791 F.Supp. 259 (E.D. Washington, 1992). The presumption may be  
 6 rebutted by "some evidence," which may consist of the defendant's own testimony.  
 7  
 8 Id., at 260. Any doubts regarding the propriety of release should be resolved in the  
 9 defendant's favor. Id., at 259. "Although the presumption shifts a burden of  
 10 production to the defendant, the burden of persuasion remains with the government.  
 11  
 12 See United States v. Rodriguez, 950 F.2d 85, 88 (2d Cir.1991). A finding that a  
 13 defendant is a danger to any other person or the community must be supported by  
 14 "clear and convincing evidence." 18 U.S.C. § 3142(f)(2)(B)." United States v. Hir,  
 15 517 F.3d 1081, 1086 (9th Cir. 2008)  
 16

17 The defendant is prepared to present evidence that he is not a flight risk and  
 18 that he does not present a danger to the community. His closest family ties and a  
 19 decade of work history are all centered in the Tri-Cities area. He has no criminal  
 20 history, rather, he has devoted himself to working and raising a family. He is  
 21 amenable to home detention or any other condition the court finds appropriate.  
 22  
 23

24 1) The nature and circumstances of the offense charged.

25 The offenses charged include money laundering and drug trafficking charges.  
 26  
 27 Mr. Carillo Casillas and co-defendants were links in a chain that neither started nor  
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1 ended with them. Mr. Carillo Casillas is identified as the lead defendant currently,  
2 but as is obvious by now through review of discovery, his ostensible role was that of  
3 a middleman. There is no suggestion of his using violence, and certainly the fact of  
4 the charge itself, the trafficking of narcotics, is not an indication of dangerousness or  
5 flight risk.  
6

7  
8 2). The weight of the evidence.

9 This factor remains unchanged since the initial detention hearing. However, as  
10 indicated by Judge Dimke at the time, this factor should not be heavily relied upon.  
11 To do so risks interference with the presumption of innocence and is not necessarily  
12 any indication of a given defendant's likelihood of returning to court or posing a  
13 danger to the community.  
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16 3.) The history and characteristics of the person.

17 Jese Carillo Casillas is a husband and father with strong ties to the local  
18 community. His wife and children are all from the area. His wife currently lives with  
19 his in-laws, her parents, in Kennewick and this is the home to which he proposes to  
20 be released. His children are 6 years old and 2 years old and are attending local  
21 schools. While his parents and some of his siblings live in Mexico, he also has a  
22 brother living in the Tri-Cities area.  
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25 Before his incarceration on this charge, Jese Carillo Casillas had not been in  
26 trouble with the law. He always maintained employment, working for landscaping  
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1 companies. For the two years prior to his arrest, he worked for Desert Lawn Care and  
2 while the work was seasonal to some extent, he worked year round with snow  
3 removal and some yard maintenance in winter. When he moved north, Mr. Carillo  
4 Casillas settled in the Tri-Cities area, where he met his wife, Daisy Camacho. They  
5 have been together 10 years and married for 7. During their marriage, both have  
6 maintained employment and she has been able to complete a course of schooling to  
7 become a medical assistant.  
8

9  
10 Through 10 years of working and living in the Tri-Cities area, Jese Carillo  
11 Casillas is firmly a member of this community. His closest and strongest ties are  
12 here. He has no criminal history, he has worked hard, and his wife and children are  
13 here. His children will benefit enormously from his presence, particularly his 6 year  
14 old son.  
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17 4) The nature and seriousness of any danger to the community upon release.

18 Mr. Carillos Casillas has no criminal history. His history is one of productive  
19 contribution to society and the development of strong family ties. The allegations  
20 herein do not involve violence. His alleged role is not one that could be picked back  
21 up again, and he invites supervision, whether in the form of home detention, regular  
22 check-ins, or any other conditions the court finds appropriate. Given his current  
23 condition, the immediate future would simply be resting and recuperating. His wife  
24 and brother are also prepared to post a surety bond, if the court will accept their use  
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1 of vehicles as assets. The defense urges that conditions of release are available to  
2 ensure the safety of the community and to assure Mr. Carillo Casillas' return.  
3

#### 4 CONCLUSION

5 For the foregoing reasons, movant respectfully requests that the court reopen  
6 detention and consider the merits of his release home. He can rebut the presumption  
7 for detention, and is entirely willing to submit to whatever conditions the court finds  
8 appropriate. Alternatively, the court could issue an order that allows him to return  
9 home to recuperate from a serious injury incurred while in custody, pursuant to 18  
10 USC 3142 (i)(4). The defense believes, however, that release is appropriate under the  
11 bail reform act, and that there are conditions of release that would adequately assure  
12 his return and the safety of the community.  
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17 Respectfully submitted this 20<sup>th</sup> day of November, 2017.  
18  
19

20 s/Robin C. Emmans

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CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notifications of such filing to AUSA Stephanie VanMarter and to attorneys for co-defendants.

s/ Robin C. Emmans

Robin C. Emmans, WSBA 37085

Attorney for Jese Carillo Casillas